Washington County Land Use Authority Meeting June 12, 2012

The Washington County Land Use Authority Meeting was held Tuesday, June 12, 2012 in the Council Chambers of the Washington County Administration Building located at 197 E. Tabernacle, St. George, UT. The meeting was convened at 1:30 p.m. by Vice Chairman Kim Ford.

Commissioners present: Deborah Christopher, Dave Everett, Mike Stucki, and Rick Jones.

Excused: Doug Wilson, JoAnn Balen, and Julie Cropper (alternate).

Staff present: Deon Goheen, Planning & Zoning Administrator; Eric Clarke, Deputy Attorney; Doreen Bowers-Irons, Planning Secretary; Todd Edwards, County Engineer; Kurt Gardner, Building Official; Rachelle Ehlert, Deputy Attorney, Alan Gardner, Commissioner.

Audience attendance: John Willie, Marc Raines, Jo Hillocks, Lee Edel, Kamarie Naase, Chris Walker, Sarah Gaines, David Nelson, Dave Perrine, Waid Reynolds, and unknown others.

Vice Chairman Ford welcomed and thanked everyone for attending. He led the Pledge of Allegiance after which, he explained meeting protocol. He excused Doug Wilson who was unable to attend.

The planner stated Rachelle Ehlert will be moving into a new position in the County Attorney's office and she wanted to speak to the commission.

Rachelle Ehlert spoke to the commission expressing her goodbyes. She told them of her new position and thanked them for the past 6 years together. She stated Eric Clarke will be working with staff and the commission and will do a good job.

The Commission congratulated and thanked her for all of her good work and informed her she would be missed.

Eric Clarke stated he was excited and looked forward to the opportunity to work with them. He thanked Rachelle for helping him with the transition.

- I. <u>STAFF COMMENTS.</u> Review staff comments for each item listed below; Staff initiated.
- **II.** CONDITIONAL USE PERMIT. Request permission for a Gypsum Mining Operation on 11.3 acres of BLM Land, Section 24, T43S, R17W, SLB&M; generally located west of St. George/Sun River area; Fred Johnson/Good Earth Minerals, LLC, applicants.

The Planner stated the applicant has submitted an application for a mining operation on BLM land in the Blake's Lambing Ground area in southwestern Washington County to remove gypsum beds at the mine site. They propose to mine 800,000 tons of high purity gypsum. This will encompass approximately 11.5 acres of land and they will haul the ore out on the Apex Mine road to Old Hwy 91. The documentation, site plans, and other studies are available for review at the Planning Office. Mining is conditionally approved within the OSC-20 zone (*County Code10-6A-3*). She gave a brief description of the plans for the proposal and the distance from the nearest development of Sun River. The applicant will work with BLM to meet their requirements. She asked if there were any questions.

Commissioner Everett asked if an environmental study for the project had been done. The planner stated it had and was available in the Planning Office or on the BLM website. The applicant stated he would e-mail an electronic copy of the report for the commissioners to review.

Fred Johnson, local geologist and consultant working with Good Earth Minerals explained the access from the Apex Mine road and the lengthy process they have done to get to this point in the project that included State Permits, BLM Permits, Air Quality Permits, and Bonding. He reported on the environmental impact studies that were done, how the road work would be accomplished. He explained the mining process to extract the product and then moving it off site. The company has bonded for 13 acres of land and will utilize approximately 8 acres for mining and the remaining acres would be used for stock piling product, equipment, an office, and port-a-potties.

Commissioner Christopher asked if this is a new operation or part of the currently operating gypsum mine.

Travis Christiansen attorney for Good Earth Minerals informed the commission the application is for a new operation. The mining operation referenced by Commissioner Christopher is a different company and the mine is actually located on the strip in Arizona.

A short discussion on the referenced Arizona mine took place.

Commissioner Ford asked approximately how many trucks per day would be running. Mr. Johnson answered initially for the first years they expect to run 3 to 4 per day hauling in and out. Then, depending on sales and demand, possibly within the next 5 years up to 14 trucks per day would haul product.

Commissioner Ford asked what the hours would be. Mr. Johnson answered during daylight hours, about eight hours per day, Monday through Friday from 7:00 a.m. to 6:00 p.m. There would be no weekend or holiday work.

Commissioner Ford asked about the machine to mine the product. Mr. Johnson explained how the continuous miner machine worked. He explained dust and debris containment.

Commissioner Stucki asked if an EPA study addressing the dust and dirt issues had been done. Mr. Johnson stated it had. Commissioner Stucki had other questions which he asked and were answered.

A lengthy discussion regarding dust containment, water, staging areas, operating hours, equipment to be utilized, size of finished product hauled, hauling, stockpiling, a guard station, storage, noise, and various incidentals to the mining occurred.

Mr. Johnson stated they are working with the Shivwits Nation to stage and store vehicles and to obtain water for the project. The Commission voiced concerns with the plan to stage and store vehicles. The applicants would need to come back to for an additional Conditional Use Permit for that type of use. Mr. Johnson and the commission briefly discussed the utilizing Shivwits land.

The Planner provided a letter from a nearby resident, Gregory A. James, addressing his concerns for the project. The letter was read by Vice Chair Ford.

Jo Hillocks commented that the trucks are not only leaving the area they also come back so the number of trips is doubled.

Kamarie Naas said she is the manager of SunRiver Homeowners Association and a resident of Bloomington. She stated her concerns regarding dust and air quality and asked if there were any plans for periodic testing?

The Planner stated the EPA and Division of Air Quality would monitor that information and if there are any concerns with the project, people can contact one of those organizations for details on the tests.

Mr. Edwards stated based on the submitted calculations, most of the dust would be coming from the roads and not so much the product. A request to monitor dust control could be made and would go through St.

George City. The County would work with the City for the process. A short discussion regarding dust monitoring occurred.

Ms. Naas asked if the operation would increase in size and if so, what could the maximum size operation at any given time be. Mr. Johnson answered that if the operation were to be enlarged, they would have to go back to BLM and get more approvals from the State and Federal entities. The proposed current plan is what it is. There are no plans to expand. If expansion does warrant an increase that would be years down the road.

David Perrine, resident of SunRiver stated he worked in the mining and processing equipment field and understood if everyone did their job right, the mine probably would not be notice. However, his concern is night time work? Night time would be the potential to be noisy and could impact SunRiver and Bloomington especially if a mill should be put in place. He asked about the SunRiver Parkway and the potential danger there. Mr. Johnson stated there are no plans to place a mill at this site; it is not a place to put a mill. This use is only for the mining, stockpiling, and hauling off of product.

Cheryl Sandhall asked for clarification of the 3" minus size for transportation and if the product would need to be crushed. Mr. Johnson explained how the rotating head of the miner works noting that the miner chips off the product in approximately 3" sizes. He explained how the material would be stockpiled and hauled.

Dave Nelson, SunRiver resident stated his concern of the truck route on Bluff to I-15 and utilizing alternate routes. What guarantee is there that the trucks won't use the SunRiver Parkway? Vice Chair Ford replied the Parkway is not connected. Commissioner Stucki stated once the road is connected there would be no guarantee.

Mr. Nelson stated his concern with blasting and the affect it would have to the residents. Commissioner Christopher stated she was also concerned with blasting. Mr. Johnson stated they cannot blast like they do at other types of mining sites because blasting would destroy the product, making it unusable. If they do need to blast, there is a specific procedure that won't send debris into the air it would lay it over.

Commissioner Stucki stated he did not have a problem with the project but there is no stamped site plan indicating fuel storage, fuel site, stockpiles, etc in place. We have required this of others in the permitting process and should have one for this project. He is concerned there is not enough for the commission to make a decision. The Commissioners concurred.

Motion:

Commissioner Stucki MOVED to table for one month recommendation for approval of the Conditional Use Permit, for a Gypsum Mining Operation on 11.3 acres of BLM Land, Section 24, T43S, R17W, SLB&M; generally located in the OSC-20 zoning designation, west of St. George/Sun River area; Fred Johnson/Good Earth Minerals, LLC, applicants for additional information and clarification of hours, a better designed site plan indicating storage, fuel containment, etc. Commissioner Everett SECONDED. The motion carried with all four (4) Commissioners voting in favor.

The commission and applicants briefly discussed specifics on what the commission wants to see. The applicants will work with staff for those defined items.

III. PUBLIC HEARING. Open hearing for a zone change from OST-20 (Open Space Transitional 20 acres) to RE-40.0 (Residential Estates 40,000 sq. ft.) zone southeast of Diamond Valley; Monty Bundy, applicant.

The Planner stated the commission will need to open a public hearing as referenced by State Code, whereas amending a land use ordinance requires a minimum of 10 days published notice and 24 hour posting of agenda before other public meetings. The postings were made as per requirements. This item is in conjunction with Item #4.

Vice chairman Ford opened the public hearing.

Mark Raines, Bush & Gudgell Engineering representing Monty Bundy for the zone change and subdivision asked the commissioners if they had any questions. They did not.

Steve Boston reported he lives across the street from the subject property and was concerned that in the future, the access road to the BLM land may be moved to be in line with his front door. He wants to ensure that does not happen. He stated he had no opposition to the project but was concerned with the road being across from his home.

Mr. Raines explained where the road would be relocated. It will not be across from Mr. Boston's home. A 35-foot wide access road to the BLM land has been granted through BLM property.

A short discussion on the access road took place. Mr. Boston stated he looked forward to having the homes constructed on there.

Vice chairman Ford closed the public hearing.

IV. ZONE CHANGE. Request for a zone change from OST-20 (Open Space Transitional 20 acres) to RE-40.0 (Residential Estates 40,000 sq. ft.) zone containing 9.971 acres, a portion of Section 1, T41S, R16W, SLB&M, generally located southeast and adjacent to Diamond Valley Acres Subdivision; Monty Bundy, applicant.

The Planner reported this is an action item. After closing the public hearing, the Commission will act on the zone change, which has been properly advertised. This zone is the same as the other development in the area RE-40.0 Residential Estates and adjacent to the OSC-20 zone on the easterly side. The proposed use is to provide permanent area for small farms, hobby farms, and limited agricultural development for personal use. The General Plan depicts this area as being transitional to a Residential Zone.

Motion: Commissioner Stucki MOVED to recommend approval of the zone change from OST-20 (Open Space Transitional 20 acres) to RE-40.0 (Residential Estates 40,000 sq. ft.) zone containing 9.971 acres, a portion of Section 1, T41S, R16W, SLB&M, generally located southeast and adjacent to Diamond Valley Acres Subdivision with the following findings of facts:

- 1. The access road would be physically moved to the northern portion of the subdivision.
- 2. The General Plan depicts it as a transitional to a residential zone.
- 3. The property would be compatible with the adjacent zone.
- 4. There were no negative public comments during the public hearing.

Commissioner Jones SECONDED. The motion carried with all four (4) Commissioners voting in favor.

This item will go before the County Commission on July 19, 2012

V. <u>PUBLIC HEARING.</u> Open hearing for final plat approval for the Bundy Subdivision – Phase 2, 4 lots, located southeast and adjacent to Diamond Valley Acres Subdivision; Monty Bundy, applicant.

The Planner stated the commission will need to open a public hearing as referenced by State Code, whereas amending a land use ordinance requires a minimum of 10 days published notice and 24 hour posting of agenda before other public meetings. The postings were made as per requirements. This item is in conjunction with Item #6.

Commissioner Stucki asked about the amount of water available to the lots. The planner stated the developer has water available for all lots.

Mr. Raines reported the applicants had met with the BLM and received approval on the new access road easement. This will be placed on the plat when recorded.

Commissioner Stucki clarified the easement issue.

Todd Edwards spoke about the access road indicating the new road would meet county standards and is a better road than the existing access road.

Vice chairman Ford opened the public hearing.

There were no public comments.

Vice chairman Ford closed the public hearing.

VI. <u>FINAL APPROVAL</u>. Consider final plat approval for the Bundy Subdivision – Phase 2, 4 lots, containing 9.971 acres, a portion of Section 1, T41S, R16W, SLB&M, generally located southeast and adjacent to Diamond Valley Acres Subdivision; Monty Bundy, applicant.

The planner reported in 2008, this corner between two existing phases in Diamond Valley was reviewed as a discussion item and last month was granted preliminary plat approval. The applicant has submitted a final subdivision plat for the commission's review. The redlined copy and staff recommendations on plat changes have been made. The platting includes a vicinity map, description, owner's dedication, certification blocks and all other requirements for final approval. Previously, "will serve" letters from utility companies have been submitted and the letter from Questar was received after staff meeting review. A letter from the Diamond Valley Acres Water Company stating they will serve water to four (4) lots, with the Southwest Utah Public Health Department stating feasibility for Orenco Advantex wastewater treatment units on these proposed lots, and density reviewed by the Washington County Water Conservancy District. There are existing fire hydrants within 250-feet of each parcel. The developer shows road improvements using County Standards and the construction drawings have been reviewed by Public Works.

Motion:

Commissioner Stucki MOVED to recommend approval of the final plat for the Bundy Subdivision – Phase 2, 4 lots, containing 9.971 acres, a portion of Section 1, T41S, R16W, SLB&M, generally located southeast and adjacent to Diamond Valley Acres Subdivision with the following findings of facts:

- 1. The access road would be physically moved to the northern portion of the subdivision.
- 2. The General Plan depicts it as a transitional to a residential zone.
- 3. The property would be compatible with the adjacent zone.
- 4. There were no negative public comments during the public hearing.
- 5. All requirements and "will serve" letters have been received by the county.

Commissioner Christopher SECONDED. The motion carried with all four (4) Commissioners voting in favor.

This item will go before the County Commission on July 19, 2012

VII. <u>PUBLIC HEARING.</u> Open hearing for Washington County Subdivision Ordinance amendments regarding Description and Delineation: requiring the County Treasurer Certification; County initiated.

The Planner stated the commission will need to open a public hearing as referenced by State Code, whereas amending a land use ordinance requires a minimum of 10 days published notice and 24 hour posting of agenda before other public meetings. The postings were made as per requirements. This item is in conjunction with Item #8.

Eric Clark reported this is being done at the request of the County Treasurer in order to comply with what is being required of the incorporated cities and towns within Washington County. The ordinance currently states the Treasurer must certify taxes have been paid but does not require a signature. The County has asked the incorporated cities and towns of Washington County to have a signature block certifying taxes have been paid and therefore, thought the County Ordinance should also reflect that certification.

A draft copy of the Ordinance Amendment was provided. The commission briefly discussed the request.

Vice chairman Ford opened the public hearing.

There were no public comments on this item.

Vice chairman Ford closed the public hearing.

VIII. ORDINANCE AMENDMENT. Consider approval on amendment to the Washington County Subdivision Ordinance, Title 11, Chapter 4, 2: A. Description and Delineation: The final plat shall show: 11. The signature of the County Treasurer indicating at the time of signing that the property taxes, special assessments and fees due and owing have been paid in full; County initiated.

The Planner stated as previously discussed, there have been instances within Washington County where a land developer has failed to pay delinquent taxes on property and then subdivided the property and sold it; with the new owner being responsible to pay the delinquent taxes. Washington County has adopted procedures which require County Treasurer Certification prior to final plat approval. Having a uniform requirement among Washington County and the municipalities within the County will prevent confusion on the part of the developers and promote that taxes be paid prior to the final plat approval. Requiring the County Treasurer signature block on the final plat will make it clear that no delinquent taxes are owed on the property. Utah Code Annotated §§ 10-9a-603(3) and 17-27a-603(3) authorize municipalities and counties to withhold the approval of a final plat until a tax clearance is provided. Commissioner Denny Drake and the Attorneys office have worked closely on this change to the ordinance. Commissioner Drake will be speaking to the municipalities on this issue.

Motion:

Commissioner Everett MOVED to recommend approval on amendment to the Washington County Subdivision Ordinance, Title 11, Chapter 4, 2: A. Description and Delineation: The final plat shall show: 11. The signature of the County Treasurer indicating at the time of signing that the property taxes, special assessments and fees due and owing have been paid in full with the following findings of fact:

- 1. The amendment will eliminate a potential problem for payment of property taxes.
- 2. The amendment to the ordinance was requested by the County Treasurer.
- 3. The amendment would ensure uniformity of subdivision requirements throughout the county.

Commissioner Stucki SECONDED. The motion carried with all four (4) Commissioners voting in favor.

This item will go before the County Commission on July 19, 2012

IX. <u>DISCUSSION ITEM/CONCEPTUAL MASTER PLAN.</u> Revised concept drawing of Palace Pass Renaissance Resort at Exit 33 on I-15, Snowfield area; Verna Conde, applicant.

The Planner stated the applicant was not in attendance and advised the Commission to continue to the next item. This item will be put on the agenda when the applicant requests the item come back before the commission for discussion.

The commission agreed and moved to the next item.

X. <u>DISCUSSION ITEM.</u> Review proposed development on disconnect portion of land from Hurricane for Grassy Meadows Sky Ranch – Phase 6; Reid Pope Engineering, agent.

The planner stated this item is for discussion only. The applicant has requested that this parcel be disconnected from Hurricane, so he will be able to move on the development for this project as proposed in a previous master plan of the Grassy Meadows Sky Ranch Development. The applicant will not be able to get the project approved by the County until the actual disconnect plat is recorded at the Recorder's office. She showed the proposed plat to the commission for them to review.

Commissioner Stucki clarified the location of the property being in Hurricane and the intent is for them to drop out of Hurricane and become part of the County. The planner affirmed the intent and verified the location.

Commissioner Stucki commented the commission should not be hearing this until after the disconnection is completed. At this point, the applicant could design the project to Hurricane's standards. The planner pointed out the Hurricane's standards is actually less stringent than the County's. Mr. Stucki stated he would listen but felt the item was a moot point.

Reid Pope, representing the applicant stated the biggest issue is strictly the power. Hurricane has no power to this location. Rocky Mountain has power to this location but would need to have a franchise agreement with Hurricane which, could take years to put in place. The disconnection was approved by Hurricane City; the plat has been prepared but needs to be recorded.

A short discussion of the two biggest reasons for disconnection from Hurricane City and why took place which, were the runway and the power.

Mr. Edwards explained to the commission the surrounding properties and roads. He questioned what standards should be met in building the roads; whether to build them to County standards or Hurricane standards. Hurricane may request they be built to their standards which, are more stringent and more of a rural standard. The question for the commission is on the flag lot. We have had two flag lots in Pine Valley where the County Commission said if it can be divided some other way, you cannot have the flag lot. He asked if the flag lot was something that would be accepted.

The Commission, Staff and the applicant discussed the item in length. The discussion included the pending disconnect, water, sewer/septic systems, road construction standards, the proposed flag lot and lot frontages, runway access, and the power issue. A cul-de-sac for the project was suggested to eliminate the flag lot.

Commissioner Stucki suggested the applicant look at moving property lines to meet the County requirements. The flag lot is not the only option. He commented on the Ash Creek Study that originally wanted 8 acres now they are saying smaller acres would be fine, that is not right.

Mr. Pope commented that the flag lot would have less maintenance and costs to the county as opposed to a cul-de-sac.

A discussion regarding the Ash Creek Special Service District feasibility study by Hansen, Allen, Luce and possible revisions for the area occurred.

The Commission advised the Mr. Pope to meet the ordinance requirements.

XI. <u>STAFF DECISIONS.</u> Review of decisions from the Land Use Authority Staff Meeting held on June 05, 2012; County initiated.

The Planner reviewed Staff decisions of the Land Use Authority Staff Meeting held June 05, 2012.

ACTIONS OF THE LAND USE AUTHORITY STAFF MEETING June 5, 2012

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Michele Mitchell, Deputy Civil Attorney; Todd Edwards, County Engineer; Darwin Hall, Ash Creek Special Service District; Tina Esplin, Washington County Water Conservancy District; and Becky Marchal, Questar Preconstruction Specialist.

Excused: Ron Whitehead, Public Works Director; Director Paul Wright, Department of Environmental Quality; and Robert Beers, Southwest Utah Public Health Department.

CONDITIONAL USE PERMIT EXTENSION:

A. Request permission to build a single family dwelling within the OST-20 zone, Kolob Mountain on 39 acres near Kolob Reservoir. Kelly Blake, applicant.

This is the review for a 3rd extension, with the applicant previously meeting the requirements for the Conditional Use Permit by submitting a site plan for a dwelling (Permit #6016), septic permit and letters from the Washington County Water Conservancy District stating they will serve culinary water to the property. A septic permit has been issued by the Southwest Utah Public Health Department. Building Inspector Henry Brannon completed the dry wall, ceiling, and garage inspections on June 27, 2011. The building department will send a letter to the owner for a status report. The property is accessed from Kolob Mountain Road, then entering the 500 plus acres owned by the Blake's. The home is being built on the property line and east sectional line on the 39 acres. The site plan meets all setback requirements. The staff granted approval of the Conditional Use Extension for a single family dwelling for another year.

B. Request permission for an accessory dwelling above a garage at 255 S. 200 West, in Pine Valley. Rexine Rowley, applicant and Jeff Gardner, agent.

This is a review for a 3rd extension for an accessory dwelling to be above a detached garage (Permit #6033). Building Official Kurt Gardner will inspect the unit for final occupancy on Wednesday, June 6, 2012. Previously applicant obtained approval of the Washington County Water Conservancy District (WCWCD) on densities in the Pine Valley area for an upgrade to the septic system, so the Southwest Utah Public Health Department (SWUPHD) issued another septic permit. The property is within the RE-20.0 zone and meets the setback requirements of that zone. The applicant submitted a site plan and floor plan for review showing the sleeping quarters were labeled correctly. **The staff approved the Conditional Use Permit granting permanent status, subject to the final inspection being made.**

C. Request permission to build a single family dwelling within the OST-20 zone, Enterprise area in the Big Mountain Subdivision. Howard West, applicant.

This is an automatic annual review. Previously the applicant met the requirements for the Conditional Use Permit by submitting a site plan, septic permit, and quantity and quality on a private well. Single family dwellings are conditionally approved within the OST-20 zone, with this property containing a total of 50 acres. The property is accessed from Hwy 120 and generally located west of Enterprise. The site plan meets all setback requirements. The final inspection to permit #6258 was made on September 15, 2011 issuing Certificate of Occupancy. The staff granted approval of the Conditional Use Permit for a single family dwelling with permanent status.

D. Request permission to build a single family dwelling within the A-20 zone, southeast of New Harmony. Ray Rhoe, applicant.

This is an automatic annual review and previously the applicant met the requirements for the Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department (SUPHD), and a culinary water use from a private well, showing quantity and quality.

Single family dwellings are conditionally approved within the A-20 zone, with this property containing a total of 20 acres. The property is accessed from the Old Hwy 144, heading southeasterly to 600 South. The site plan meets all setback requirements of 25' on all sides, rear and front. The Wildland Urban Interface for fire protection was addressed during the permitting process at the staff level. The building department will be sending a 30 day temp letter to contractor for status on permit #6263. **The staff granted approval of the Conditional Use Extension for another year.**

Staff reviewed one (1) Conditional Use Permit to be reviewed by the Planning Commission on their regular agenda. They reviewed a Discussion Item for a revised concept drawing Sky Ranch Phase 6; Bundy Subdivision Phase 2; and zone change. Ordinance Amendments for Treasurers signature block scheduled for the upcoming Planning Commission hearing.

XII. MINUTES. Consider approval of the minutes of the regular Planning Commission meeting held May 8, 2012.

Motion: Commissioner Everett MOVED to adopt the minutes of May 8, 2012. Commissioner Christopher SECONDED. The motion passed with four (4) commissioners voting aye.

XIII. <u>COUNTY COMMISSION ACTION REVIEW</u>. Review of action taken by the County Commission on Planning Items on April 17, 2012 and May 1, 2012; County initiated.

The Planner reported on actions taken on planning items by the Washington County Commission on May 15, 2012, beginning at 4:00 p.m. which were: (a) Conditional Use Permit Extension review to operate an aggregate processing plant and crushing operation in an existing grand fathered pit on 22.39 acres, located in a portion of Section 32, T39S, R16W, SLB&M, generally locate east of Veyo; Sunrock Corporation/Russell Leslie and Dana Truman, applicants. (b) Conditional Use Permit Extension review on three(3) motorized valve buildings in Central, Gunlock, and near Beaver Dam for the UNEV Petroleum Pipeline project; Cindy Gubler/UNEV representative, applicant.

IX. <u>COMMISSION & STAFF REPORTS.</u> General reporting on various topics; County initiated.

There were no reports made.

Motion was made by Commissioner Stucki and seconded by Commissioner Christopher to adjourn the meeting at 4:15 p.m.

Doreen Bowers-Irons Planning Secretary

Approved: 10 July 2012